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SW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,289	01/30/2002	Toshinori Tanase	P 290662	2634
23400	7590	11/13/2003	EXAMINER	
POSZ & BETHARDS, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			DUNN, DAVID R	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/058,289	Applicant(s) TANASE ET AL. <span style="float: right;">SW</span>	
	Examiner David Dunn	Art Unit 3616	

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-17 is/are pending in the application.  
     4a) Of the above claim(s) 2-4 and 6-9 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-17 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This Office Action is responsive to the amendment filed 9/29/03 in which claim 1 was canceled and new claims 10-17 were added. Currently claims 1-4 and 6-17 are pending with claims 2-4 and 6-9 remain withdrawn.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Beisswenger et al. (6,070,903).

Beisswenger et al. discloses a head protecting air bag device comprising: a bag body (16) forming at least one expansion room and a gas passage (top portion of bag 16) extending in the longitudinal direction of a vehicle body communicating to the expansion room; an inflator (10) which ejects expansion gas in the bag body; a flexible inner tube (12; note column 1, lines 49-51) provided in the gas passage and for supplying the expansion gas into the expansion room; and a pipe (30) coupled to a gas ejection port of the inflator and extending in an axial direction of the inner tube, a leading end of the pipe protruding into the inner tube (see Figure 4). As seen in Figure 4, an inner diameter of the pipe (30, at the location of the pointer 20, where 30 is reduced to its smallest diameter) is smaller than an outer diameter of the ejection part (14) of the inflator,

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an a length of the pipe is smaller than a length with which the pipe extend over a gas outlet hole for supplying the expansion gas to the expansion room (the pipe 30 does not extend over gas outlet holes).

*Allowable Subject Matter*

3. Claims 10-17 are allowed.

*Response to Arguments*

4. Applicant's arguments filed 9/29/03 have been fully considered but they are not persuasive. Applicant's arguments on page 8 regarding Bailey are now moot as this rejection has been withdrawn in view of the amended claim.

On page 9, Applicant argues the rejection by Beisswenger. Firstly, Applicant states "port 30 cannot be said to amount to the claimed pipe". In response, it is submitted that the port element 30 of Beisswenger is a "pipe". As defined by Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> edition, a pipe is "a tubular or cylindrical object, part, or passage." It appears that the port 30 of Beisswenger as seen in Figure 4 is a tubular passage and can be defined as a "pipe".

Applicant also argues "Beisswenger fails to disclose that an inner diameter of a pipe is smaller than an outer diameter of an ejection port." In response, it is submitted that Figure 4 clearly shows the port 30 having a smaller diameter (note the smallest diameter location near the pointer of 20) than the opening 14. The examiner measured the diameter of 30 at the smallest location to be approximately 3/8 of an inch, and the diameter of the opening of the inflator to be 5/8 of an inch (measured from Figure 4).

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Applicant also states that "a gas exit tube 12 in Beisswenger is provided with an engaging means 22 to interlock with groove 22 simply to provide a seal." While Beisswenger may include additional structure not required by Applicant's invention, it must be noted that Beisswenger discloses the invention as claimed. The fact that it discloses additional features not claimed is immaterial.

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

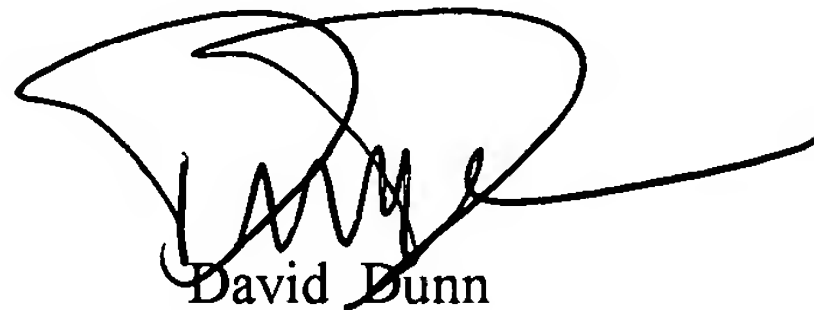
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 703-305-0049. The examiner can normally be reached on Mon-Thur, alt. Fridays, 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-1113.

A handwritten signature in black ink, appearing to read 'David Dunn', with a large, sweeping flourish extending to the right.

David Dunn  
Examiner  
Art Unit 3616